



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

**75 Hawthorne Street
San Francisco, CA 94105**

AUG 18 2004

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**SAN DIEGO REGIONAL
WATER QUALITY
CONTROL BOARD**

Hashim Navrozali
Water Resource Control Engineer
California Regional Water Quality Control Board,
San Diego Region
9174 Sky Park Court, Suite 100
San Diego, CA 92123

Dear Mr. Navrozali:

We have reviewed the draft NPDES permit (number CA0001368) for Duke Energy LLC, South Bay Power Plant. We commend the Regional Board staff for their hard work in developing this permit. However, we have several comments that we would like to bring to your attention during the public comment period.

Page 3 (finding 18) of the draft permit states that the 316(b) study conducted in 2003 "demonstrated compliance with the requirements of the rule (prevailing in 2003)." Similar references are also found in the fact sheet on pages 3 and 24. This statement is incorrect, as no 316(b) rule existed prior to the rule adopted in February, 2004. This language should be deleted from the permit.

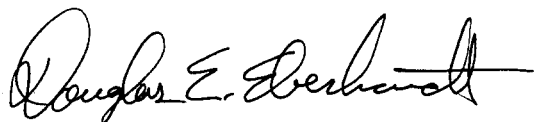
The tentative order allows the discharger nearly 4 years to complete the Comprehensive Demonstration Study under 316(b). Because it appears that the 2003 impingement and entrainment study contains some of the information that will be required for the Comprehensive Demonstration study, we recommend that the Regional Board shorten the timeframe for the discharger to complete the Comprehensive Demonstration Study. Alternatively, the permit could be written to provide for a process for the Regional Board and discharger to negotiate a due date after submittal of the Proposal for Information Collection.

Page 26 of the fact sheet discusses the findings and conclusions of the 2003 316(b) compliance studies regarding costs and benefits of alternative technologies. The study report apparently uses a 5-year plant life amortization. Because 5 years is not typically used for amortization calculations, if this assumption is used to demonstrate compliance with the 316(b) Phase II Rule, the basis for this assumption should be documented. Additionally, we recommend that a standard amortization analysis (15 or 20 years) should also be prepared.

We recommend that an additional special study be conducted to determine specific restoration measures that could be accomplished to address thermal, entrainment, and impingement impacts, as well as to address issues related to the Special Sunset Study. If Duke Energy makes definitive plans to close the facility, the Regional Board and the discharger may wish to focus their efforts on restoration rather than physical plant upgrades. Opportunities may be available for this discharger to contribute to the health of the San Diego National Wildlife Refuge, and to work toward implementation of the San Diego Bay Integrated Natural Resources Plan.

Thank you for this opportunity to comment. If you have questions regarding this letter, please contact Kim Driver at (415) 972-3539, or Nancy Yoshikawa at (415) 972-3535.

Sincerely,

A handwritten signature in black ink, reading "Douglas E. Eberhardt". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Douglas E. Eberhardt
Manager, CWA Standards and Permits Office